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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,806	02/06/2004	Augustin Hittinger	FRAV2003/0004 US NP	8462
5487	7590	08/28/2007		
ANDREA Q. RYAN SANOFI-AVENTIS U.S. LLC 1041 ROUTE 202-206 MAIL CODE: D303A BRIDGEWATER, NJ 08807			EXAMINER SEAMAN, D MARGARET M	
			ART UNIT 1625	PAPER NUMBER
			NOTIFICATION DATE 08/28/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/773,806

Applicant(s)

HITTINGER ET AL.

Examiner

D. Margaret Seaman

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-42 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

### DETAILED ACTION

This application was filed 2/6/2004 and claims benefit of 60/467213 (5/1/2003) which claims foreign priority to France 03 01478 (2/7/2003). Claims 1-42 are before the Examiner and are subject to the following restriction requirement.

#### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-31 (in part), drawn to compounds and compositions of formula (Ia) wherein A is a 5- or 6- membered heterocyclic radical and Ar1 and Ar2 are the same, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
  - II. Claims 1-31 (in part), drawn to drawn to compounds and compositions of formula (Ia) wherein A is a phenyl ring and Ar1 and Ar2 are the same, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
  - II. Claims 1-31 (in part), drawn to drawn to compounds and compositions of formula (Ia) wherein A is a diazine or triazine and Ar1 and Ar2 are the same, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
  - IV. Claims 1-31 (in part), drawn to compounds and compositions of formula (Ia) wherein A is a 5- or 6- membered heterocyclic radical and Ar1 and

Ar2 are not the same, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.

- V. Claims 1-31 (in part), drawn to drawn to compounds and compositions of formula (Ia) wherein A is a phenyl ring and Ar1 and Ar2 are not the same, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
- VI. Claims 1-31 (in part), drawn to drawn to compounds and compositions of formula (Ia) wherein A is a diazine or triazine and Ar1 and Ar2 are not the same, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
- VII. Claims 1-31 (in part), drawn to compounds and compositions of formula (IB) wherein A is a 5- or 6- membered heterocyclic radical other than encompassed by the above groups I-VI, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
- VIII. Claims 1-31 (in part), drawn to drawn to compounds and compositions of formula (IB) wherein A is a phenyl ring other than encompassed by the above groups I-VI, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.
- IX. Claims 1-31 (in part), drawn to drawn to compounds and compositions of formula (IB) wherein A is a diazine or triazine other than encompassed by

the above groups I-VI, classified in class 546, subclass 153+, depending upon an election of a single disclosed species.

- X. Claims 32-42 (in part), drawn to methods of treatment using formula (Ia) wherein A is a 5- or 6- membered heterocyclic radical and Ar1 and Ar2 are the same, classified in class 514, subclass various+, depending upon an election of a single disclosed species.
- XI. Claims 32-42 (in part), drawn to methods of treatment using formula (Ia) wherein A is a phenyl ring and Ar1 and Ar2 are the same, classified in class 514, subclass various+, depending upon an election of a single disclosed species.
- XII. Claims 32-42 (in part), drawn to drawn methods of treatment using formula (Ia) wherein A is a diazine or triazine and Ar1 and Ar2 are the same, classified in class 514, subclass various, depending upon an election of a single disclosed species.
- XIII. Claims 32-42 (in part), drawn to methods of treatment using formula (Ia) wherein A is a 5- or 6- membered heterocyclic radical and Ar1 and Ar2 are not the same, classified in class 514, subclass various, depending upon an election of a single disclosed species.
- XIV. Claims 32-42 (in part), drawn to drawn to methods of treatment using formula (Ia) wherein A is a phenyl ring and Ar1 and Ar2 are not the same,

classified in class 514, subclass various+, depending upon an election of a single disclosed species.

- XV. Claims 32-42 (in part), drawn to drawn methods of treatment using formula (Ia) wherein A is a diazine or triazine and Ar1 and Ar2 are not the same, classified in class 514, subclass various+, depending upon an election of a single disclosed species.
- XVI. Claims 32-42 (in part), drawn to methods of treatment using compounds of formula (IB) wherein A is a 5- or 6- membered heterocyclic radical, other than encompassed by the above groups I-VI, classified in class 514, subclass various+, depending upon an election of a single disclosed species.
- XVII. Claims 32-42 (in part), drawn to methods of treatment using formula (IB) wherein A is a phenyl ring, other than encompassed by the above groups I-VI, classified in class 514, subclass various+, depending upon an election of a single disclosed species.
- XVIII. Claims 32-42 (in part), drawn to methods of treatment using compounds of formula (IB) wherein A is a diazine or triazine other than encompassed by the above groups I-VI, classified in class 514, subclass various+, depending upon an election of a single disclosed species.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I-IX are directed to related compounds. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have materially different function and do not overlap in scope. Further the different groups are not obvious variants. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Inventions X-XVIII are directed to related methods of use. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have different function and do not overlap in scope. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Inventions s I-IX and X-XVIII are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially

different process of using that product. See MPEP § 806.05(h). In the instant case the methods can be practiced with materially different compounds.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions



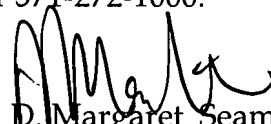
unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Margaret Seaman whose telephone number is 571-272-0694. The examiner can normally be reached on 730am-4pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
D. Margaret Seaman  
Primary Examiner  
Art Unit 1625

dms